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BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D. C. 20268-0001

REVISIONS TO LIBRARY REFERENCE RULE

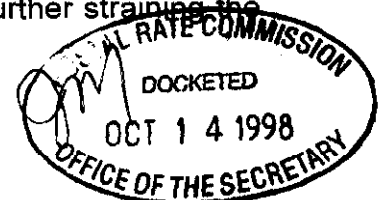
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Docket No. RM98-2

COMMENTS OF ADVO, INC.  
IN RESPONSE TO ORDER NO. 1219

By Order No. 1219, dated September 8, 1998, the Commission has requested comments on proposed revisions to its rules of practice concerning library references. Advo, Inc. (Advo) hereby submits its comments.

Based on the experience in Docket R97-1, Advo agrees that there is a need for better procedural mechanisms for handling library references. In particular, the Commission's rules should require parties to provide better notice of the content, nature, and intended use of library references, including, where appropriate, (1) cross-references to testimony that relies upon or uses information in the library reference, (2) identification of portions that are intended to be introduced into evidence, and (3) the identity of sponsoring witnesses.

The Commission's proposal to require parties to file motions accompanying their library reference materials, however, is likely to create more problems and confusion than it resolves. This is especially so in the case of the Postal Service's initial filings in a general rate case. Other parties, facing a mountain of testimony and materials, and with only seven or ten days to respond to library reference motions, may feel compelled as a defensive measure to oppose the Postal Service's motions even before they have had an opportunity to digest the materials and determine their importance. In Docket R97-1, the controversies focused on only a few of the hundreds of Postal Service library references. Requiring a new form of mandatory motions at the start of a rate case will likely invite excessive motions practice, further straining the resources of the parties and the Commission.



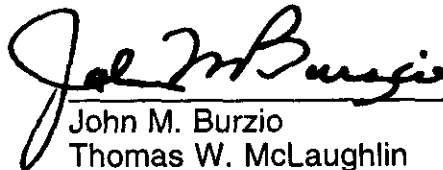
Moreover, it is unclear what such motions practice would accomplish. If denial of a motion simply means that the materials would have to be served on all parties, this may be wasteful because a particular library reference is typically of interest to only a fraction of the intervenors in a rate case, and those parties generally have ready access to the materials from the Postal Service and Commission. Access to library reference materials was not an issue in Docket R97-1. On the other hand, if denial of a library reference motion is intended to be more substantive in nature (i.e., addressing the intended evidentiary status or sponsorship of the materials), forcing the issue at the start of the rate case may be premature.

We believe that the energies of the Postal Service, the parties, and the Commission would be better utilized (1) by requiring better explanation and cross-referencing of library references at the outset, and (2) by more specifically identifying the kinds of materials that should normally be sponsored as part of a party's direct case (e.g., analyses or studies that were prepared specifically for the rate case and that provide substantial and direct support for the party's testimony).

We recognize that formulating improved rules on library reference notice and sponsorship requirements is easier said than done, particularly with respect to the issue of sponsorship and evidentiary status. Indeed, an overly broad rule that requires sponsorship at the outset of all library references that are used in some manner in the a party's direct case would be unmanageable and potentially even worse than the current practice. Although a rule that provides more specific guidance (perhaps by examples) on the kinds of materials that ought to be sponsored would inevitably leave gray areas and would not eliminate all potential controversies, it would nevertheless mitigate if not eliminate the specific kinds of evidentiary status controversies raised by several parties in Docket R97-1. Moreover, unlike the Commission's proposal to require motions practice, these kinds of reforms would deal more directly with the core of the controversies over use of library references.

Rather than proposing a specific set of alternative rules at this time, we suggest that these issues might be better addressed initially by convening a conference of interested parties and Commission staff to discuss possible solutions. Such a conference, held outside the context of a pending rate case where litigation considerations may color perspectives, could provide a forum for general consensus or at least a narrowing of the issues relating to library reference rules.

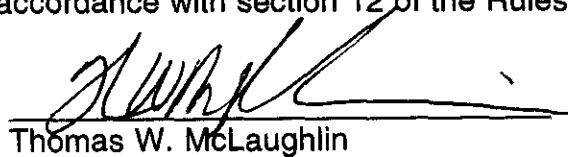
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have on this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

  
Thomas W. McLaughlin

October 14, 1998